

## **REMARKS**

Reconsideration of the application, as amended, is respectfully requested.

Enclosed with this RCE and petition for three month extension time is a check in the amount of \$860.00 which covers the required fee for the RCE of \$385.00 and the petition fee of \$475.00. It is noted that the Applicant is a small entity. No additional fees are believed to be due for extension or extra claims fees. However, if any fees are due, the Commissioner of Patents is authorized to charge my deposit no. 11-1152.

### **I. STATUS OF CLAIMS**

Claims 25-39 are pending in this application. Claims 25-34 have been allowed. Claim 35 has been amended to more particularly point out and distinctly claim that which applicants regard as their invention. New claims 40-44 have been added. It is respectfully submitted that no new matter has been added by virtue of this amendment. Support for amended claim 35 and new claims 40-44 may be found throughout the specification as originally filed.

### **II. 35 U.S.C. § 103(a)**

The Examiner has again rejected claims 35 and 37-39 under 35 U.S.C. § 103(a) as being unpatentable over WO 95/30973 to Broadfield ("the Broadfield publication"). Further, the Examiner again objected to claim 36 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, it is respectfully asserted that the Broadfield publication fails to teach or suggest the amusement apparatus as recited in claim 35, as amended.

Initially, Applicants note that claim 35, has been amended herewith to further

clarify that the enhanced function provided by the data swipe card includes at at least enhancing a function of the amusement apparatus which has already been activated .

Additionally, this amendment has been made in order to expedite the prosecution of the present application and should not be deemed as being an admission in view of the prior art.

Namely, the Broadfield publication at the very least fails to teach or suggest "... enhancement data adapted to provide an enhanced function of the apparatus , and wherein said enhanced function comprises at least enhancing a function which has already been activated ", as recited in claim 35, as amended. Rather, in Broadfield, its financial data activates or initiates pre-programmed functions, including movement and visual/auditory effects of its stationary device, but this financial data in no way alters or enhances these pre-programmed functions ( e.g. movements, visual display/audio) once these pre-programmed functions have been activated. In other words, in Broadfield, once a particular pre-programmed function of its device has been activated by the financial data, this particular pre-programmed function of the device proceeds entirely according to a pre-programmed plan (i.e. the stored plan set forth in the microprocessor), unaltered in any way by the financial data. The above applies to all of the pre-programmed functions of the Broadfield device which are activated by its financial data. In contrast, as can be gleaned from above, claim 35, as amended, requires that the enhanced function provided by the data swipe card includes at least enhancing a function of the amusement apparatus which has already been activated . Therefore, the Broadfield publication fails to teach or suggest claim 35, as amended.

Finally, with regard to the Examiner's contention in the instant Office Action that initiation or activation of movement and visual effects of the Broadfield device by its financial data constitutes an enhanced function, this point is now moot in connection with claim 35, as amended. Specifically, as mentioned, amended claim 35 now requires that the enhanced function provided by the data swipe card includes at least enhancing a function of the amusement apparatus which has already been activated . As discussed, Broadfield fails to teach or suggest this feature of the presently claimed invention.

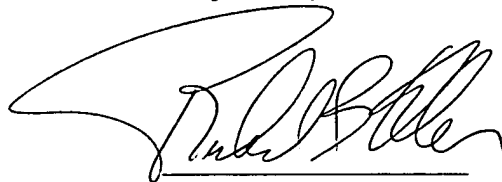
For the reasons set forth herein above, withdrawal of the rejection of claim 35 is respectfully requested. As claims 36-39 depend from and incorporate the limitations of independent claim 35, withdrawal of the above noted rejections and/or objections to these claims is also requested. Moreover, since new claims 40-44 depend directly and/or indirectly from and incorporate the limitations of independent claim 35, these new claims are likewise patentable over the art cited by the Examiner.

### III. CONCLUSION

In view of the actions taken and arguments made it is believed that all pending claims as currently presented are now in condition for allowance. A Notice of Allowance is respectfully requested.

According to currently recommended Patent Office policy, the Examiner is requested to contact the undersigned at the telephone number provided below in the event that a telephone interview will advance the prosecution of this application. An early and favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Richard B. Klar', is written over a horizontal line.

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